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APR 23 2009

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	U.S. PATENT & TRADEMARK OFFICE	REPORT ON THE FILED OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised
that a court action has been filed in the U.S. District Court San Diego on the following Patents or Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
08-CV-1721 DMS (WMe)	09/19/2008	Southern District of California
PLAINTIFF	DEFENDANT	
DJO, LLC	Medical Technology, Inc.	
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1 See complaint 5,865,841	6	11
2 5,980,561	7	12
3	8	13
4	9	14
5	10	15

In the above-entitled case, the following patent(s)/trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	
1	6	11	
2	7	12	
3	8	13	
4	9	14	
5	10	15	

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
<i>attached</i>		
CLERK W. Samuel Hamrick, Jr.	(BY) DEPUTY CLERK <i>[Signature]</i>	DATE <i>4/20/09</i>

ORIGINAL

1 LATHAM & WATKINS LLP
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5 Attorneys for Plaintiff
6 DJO, LLC

FILED

2008 SEP 19 PM 3:50

CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY KMT DEPUTY

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 DJO, LLC, a Delaware corporation,
12 Plaintiff,

13 v.

14 MEDICAL TECHNOLOGY, INC.,
dba BLEDSOE BRACE SYSTEMS, a
15 Texas corporation,

16 Defendant.

CASE NO.

'08 CV 1721 DMS WMc

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COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

17
18
19 Plaintiff DJO, LLC ("DJO"), for its Complaint against defendant
20 Medical Technology, Inc., dba Bledsoe Brace Systems ("Bledsoe"), hereby alleges
21 as follows:

22 JURISDICTION AND VENUE

23 1. This is an action for patent infringement arising under the
24 Patent Act of the United States, 35 U.S.C. §§ 271 and 281. This Court has subject
25 matter jurisdiction over the matters complained of under 28 U.S.C. §§ 1331 and
26 1338.

27 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
28 1391(b) and (c), and 1400(b), in that DJO and Bledsoe reside in this district and

CR

1 Bledsoe committed acts in this District that are alleged herein to constitute patent
2 infringement.

3
4 THE PARTIES

5 3. DJO is a Delaware corporation having its principal place of
6 business at 1430 Decision Street, Vista, California.

7 4. Bledsoe is a Texas corporation having its principal place of
8 business at 2601 Pinewood Drive, Grand Prairie, Texas.

9 GENERAL BACKGROUND ALLEGATIONS

10 5. DJO is a leading global developer, manufacturer, and
11 distributor of high-quality medical devices that provide solutions for
12 musculoskeletal health, vascular health, and pain management, including "cold
13 therapy" products, such as the Iceman® Cold Therapy System.

14 6. On February 2, 1999, United States Patent No. 5,865,841 (the
15 "'841 patent"), entitled "Cold Therapy Apparatus," was duly and legally issued to
16 Paul T. Kolen and Thomas D. Ford. DJO is the assignee and owner of the '841
17 patent. A true and correct copy of the '841 patent is attached hereto as Exhibit A.

18 7. On November 9, 1999, United States Patent No. 5,980,561 (the
19 "'561 patent"), entitled "Applying Thermal Therapy To Living Tissue," was duly
20 and legally issued to Paul T. Kolen and Thomas D. Ford. DJO is the assignee and
21 owner of the '561 patent. A true and correct copy of the '561 patent is attached
22 hereto as Exhibit B.

23 FIRST CLAIM FOR RELIEF AGAINST BLEDSOE

24 (Patent Infringement — '841 patent)

25 8. DJO incorporates by reference the allegations contained within
26 paragraphs 1 through 7 of this Complaint as if fully set forth herein.

27 9. On information and belief, after the '841 patent was issued,
28 Bledsoe infringed, and continues to infringe, the '841 patent, both literally and

1 under the doctrine of equivalents, and both directly and indirectly, by making,
 2 using, marketing, and selling its cold therapy products, including, but not limited
 3 to, products marketed under the name "Cold Control."

4 10. DJO has suffered and, unless this Court issues an injunction,
 5 will continue to suffer, irreparable harm for which there is no adequate remedy at
 6 law as a result of Bledsoe's infringement of the '841 patent. Accordingly, DJO is
 7 entitled to a preliminary and permanent injunction enjoining Bledsoe from its
 8 infringing activities.

9 11. Bledsoe's infringement of the '841 patent has proximately
 10 damaged DJO in an amount to be proven at the time of trial.

11 12. On information and belief, Bledsoe's past and continuing
 12 infringement of the '841 patent has been, and is, deliberate and willful, thus
 13 making this an exceptional case and entitling DJO to an award of treble damages
 14 and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

15 SECOND CLAIM FOR RELIEF AGAINST BLEDSOE

16 (Patent Infringement — '561 patent)

17 13. DJO incorporates by reference the allegations contained within
 18 paragraphs 1 through 12 of this Complaint as if fully set forth herein.

19 14. On information and belief, after the '561 patent was issued,
 20 Bledsoe infringed, and continues to infringe, the '561 patent, both literally and
 21 under the doctrine of equivalents, and both directly and indirectly, by making,
 22 using, marketing, and selling its cold therapy products, including, but not limited
 23 to, products marketed under the name "Cold Control."

24 15. DJO has suffered and, unless this Court issues an injunction,
 25 will continue to suffer, irreparable harm for which there is no adequate remedy at
 26 law as a result of Bledsoe's infringement of the '561 patent. Accordingly, DJO is
 27 entitled to a preliminary and permanent injunction enjoining Bledsoe from its
 28 infringing activities.

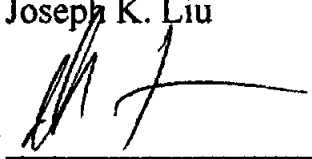
1 8. For such other and further relief as this Court deems just and
2 proper.

3
4 Dated: September 19, 2008

LATHAM & WATKINS LLP

Mark A. Finkelstein
Joseph K. Liu

5
6
7 By



Mark A. Finkelstein
Attorneys for Plaintiff
DJO LLC

JURY DEMAND

A trial by jury is hereby demanded on all issues triable to a jury.

Dated: September 19, 2008

LATHAM & WATKINS LLP

Mark A. Finkelstein

Joseph K. Liu

By 

Mark A. Finkelstein

Attorneys for Plaintiff DJO, LLC

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DJO, LLC
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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 DJO, LLC, a California corporation,
12 Plaintiff,

13 v.

14 MEDICAL TECHNOLOGY, INC.,
dba BLEDSOE BRACE SYSTEMS, a
15 Texas corporation,
16 Defendant.

CASE NO. 08CV1721 DMS (WMC)

**DISMISSAL OF ENTIRE ACTION
WITH PREJUDICE**

18 Pursuant to Rule 41(a)(1), and in accordance with a settlement
19 agreement between the parties, plaintiff DJO, LLC hereby dismisses this entire
20 action *with prejudice*.

21 Dated: March 4, 2009

LATHAM & WATKINS LLP

22
23 By 

24 Mark A. Finkelstein
Attorneys for Plaintiff DJO, LLC
25
26
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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 650 Town Center Drive, 20th Floor, Costa Mesa, CA 92626-1925.

On **March 4, 2009**, I served the following document described as:

DISMISSAL OF ENTIRE ACTION WITH PREJUDICE

by serving a true copy of the above-described document in the following manner:

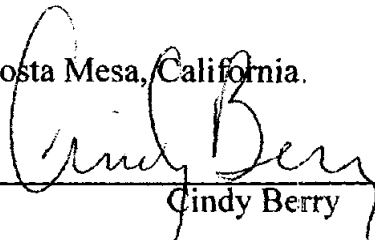
BY U.S. MAIL

I am familiar with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service. Under that practice, documents are deposited with the Latham & Watkins LLP personnel responsible for depositing documents with the United States Postal Service; such documents are delivered to the United States Postal Service on that same day in the ordinary course of business, with postage thereon fully prepaid. I deposited in Latham & Watkins LLP' interoffice mail a sealed envelope or package containing the above-described document and addressed as set forth below in accordance with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service:

Kara E. F. Cenar
K&L Gates LLP
70 W. Madison Street, Suite 3100
Chicago, IL 60602-4207
Email: kara.cenar@klgates.com

I declare that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **March 4, 2009**, at Costa Mesa, California.


Cindy Berry